

106TH CONGRESS
2D SESSION

H. R. 5468

To establish the United States Commission on Security in an Open Society.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2000

Ms. NORTON introduced the following bill; which was referred to the
Committee on Transportation and Infrastructure

A BILL

To establish the United States Commission on Security in
an Open Society.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States Commis-
5 sion on Security in an Open Society Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) an open society which affords free access to
9 public facilities and spaces and which protects the
10 right to engage in open discussion is an essential

1 premise of American governmental institutions and
2 democratic values;

3 (2) the United States is currently facing a chal-
4 lenge to the safety and security of the public, public
5 employees, and public facilities and spaces that is
6 unique in the history of this Nation;

7 (3) to meet this challenge without eroding or
8 harming any of the basic tenets of the Republic and
9 of our democracy, this Nation needs to assemble the
10 best thinking available; and

11 (4) a commission of experts from a broad base
12 of disciplines and backgrounds is necessary to exam-
13 ine all the factors that should be considered in se-
14 curing public safety while maintaining the highest
15 level of free and open access to the public.

16 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

17 (a) ESTABLISHMENT.—There is established a com-
18 mission to be known as the “United States Commission
19 on Security in an Open Society” (hereinafter in this Act
20 referred to as the “Commission”).

21 (b) COMPOSITION.—The Commission shall be com-
22 posed of 21 members appointed by the President from
23 among individuals representing such fields or groups as
24 the following: architecture, technology, civil libertarians,
25 humanists, members of the armed forces, city planners,

1 business leaders, lawyers, artists, public building security,
2 engineers, philosophers, historians, sociologists, and psy-
3 chologists. The President shall designate one of those
4 members to be the Chairperson of the Commission.

5 (c) TERMS; QUORUM; MEETINGS; VACANCIES.—

6 Members shall be appointed for the life of the Commission.
7 Nine members of the Commission shall constitute a
8 quorum, but a lesser number may hold hearings. After its
9 initial meeting, the Commission shall meet at the call of
10 the Chairperson of the Commission or a majority of its
11 members. Any vacancy in the Commission shall not affect
12 its powers, and shall be filled in the same manner as the
13 original appointment.

14 (d) APPOINTMENTS; INITIAL MEETING.—

15 (1) APPOINTMENTS.—It is the sense of the
16 Congress that the members of the Commission
17 should be appointed by not later than 90 days after
18 the date of enactment of this Act.

19 (2) INITIAL MEETING.—If, after 90 days fol-
20 lowing the date of enactment of this Act, 9 or more
21 members of the Commission have been appointed,
22 the members who have been appointed may meet,
23 and the Chairperson shall have the authority to
24 begin the operations of the Commission, including
25 the hiring of staff.

1 **SEC. 4. FUNCTIONS OF COMMISSION.**

2 (a) IN GENERAL.—The Commission shall study and
3 make findings and recommendations relating to the ques-
4 tion of how the Government of the United States may,
5 in a balanced manner, provide for both security in and
6 public access to Federal buildings and spaces.

7 (b) MATTERS TO BE EXAMINED.—In carrying out
8 this Act, the Commission shall specifically examine mat-
9 ters that relate to the security of, and open access to, pub-
10 lic facilities and spaces, including—

11 (1) Federal, other governmental, and private se-
12 curity practices and proposals, building design, pub-
13 lic space management, counterterrorism needs, and
14 refurbishment of existing Federal facilities;

15 (2) effect of access to public facilities and
16 spaces on—

17 (A) maintenance of security and safety;

18 (B) free speech, the right to petition the
19 government, and other constitutional rights and
20 civil liberties;

21 (C) economies of affected jurisdictions or
22 parts thereof;

23 (D) physical changes and architectural aes-
24 thetics of affected areas;

25 (E) traffic and congestion; and

1 (F) job performance of employees within
2 the affected facilities;

3 (3) current and potential uses of technology to
4 augment or replace traditional modes of security;

5 (4) practices of and comparisons with other en-
6 tities and nations; and

7 (5) current and potential analytical methods of
8 assessing the risks posed by terrorist and similar
9 threats, balanced against the specific needs and val-
10 ues of open access.

11 (c) COORDINATION OF ACTIVITIES.—The Commis-
12 sion shall take appropriate measures to avoid unnecessary
13 duplication of efforts previously or then currently being
14 undertaken by any other person or entity.

15 **SEC. 5. POWERS OF COMMISSION.**

16 (a) IN GENERAL.—The Commission or, on the au-
17 thorization of the Commission, any member or agent of
18 the Commission, may hold such hearings, sit and act at
19 such times and places, take such testimony, and receive
20 such evidence, as the Commission considers appropriate
21 to carry out this Act.

22 (b) OBTAINING OFFICIAL INFORMATION.—The Com-
23 mission may secure directly from any department, agency,
24 or other entity of the United States information necessary
25 to enable it to carry out this Act. Upon request of the

1 Chairperson of the Commission, the head of such govern-
2 mental entity shall, to the extent authorized by law, fur-
3 nish such information to the Commission.

4 (c) SECURITY.—

5 (1) SECURITY CLEARANCES.—The members
6 and staff of the Commission shall, as a condition of
7 appointment to or employment with the Commission,
8 hold appropriate security clearances for access to the
9 classified briefing, records, and materials to be re-
10 viewed by the Commission or its staff, and shall fol-
11 low the guidance and practices on security under ap-
12 plicable Executive orders and agency directives.

13 (2) CONDITIONS TO GRANTING ACCESS.—The
14 head of an agency shall, as a condition of granting
15 access to a member of the Commission or a member
16 of the staff of the Commission to classified records
17 or materials of the agency under this Act, require
18 the member or the member of the staff, as the case
19 may be, to—

20 (A) execute an agreement regarding the se-
21 curity of such records or materials that is ap-
22 proved by the head of the agency; and

23 (B) hold an appropriate security clearance
24 granted or recognized under the standard pro-
25 cedures and eligibility criteria of the agency, in-

1 cluding any special access approval required for
2 access to such records or materials.

3 (3) RESTRICTION ON USE.—The members of
4 the Commission and the members of the staff of the
5 Commission may not use any information acquired
6 in the course of their official activities on the Com-
7 mission for nonofficial purposes.

8 (4) NEED TO KNOW.—For purposes of any law
9 or regulation governing access to classified informa-
10 tion that pertains to the national security of the
11 United States, and to facilitate the advisory func-
12 tions of the Commission under this Act, a member
13 of the Commission or a member of the staff of the
14 Commission seeking access to a record or material
15 under this Act shall be deemed for purposes of this
16 subsection to have a need to know the contents of
17 the record or material.

18 (5) RULE OF CONSTRUCTION.—A reference in
19 this subsection to the “staff of the Commission” in-
20 cludes individuals under section 6(d)–(e).

21 (d) MAILS.—The Commission may use the United
22 States mails in the same manner and under the same con-
23 ditions as other departments and agencies of the United
24 States.

1 (e) GIFTS.—The Commission may accept, use, and
2 dispose of gifts or donations of services or property.

3 (f) ADMINISTRATIVE SUPPORT SERVICES.—The Ad-
4 ministrator of General Services shall provide to the Com-
5 mission, on a reimbursable basis, such administrative sup-
6 port services as the Commission may request.

7 **SEC. 6. PERSONNEL MATTERS.**

8 (a) COMPENSATION OF MEMBERS.—Members of the
9 Commission shall not be compensated by reason of their
10 service on the Commission.

11 (b) TRAVEL EXPENSES.—The members of the Com-
12 mission shall be allowed travel expenses, including per
13 diem in lieu of subsistence, at rates authorized for employ-
14 ees of agencies under subchapter I of chapter 57 of title
15 5, United States Code, while away from their homes or
16 regular places of business in the performance of services
17 for the Commission.

18 (c) STAFF.—Subject to such rules as the Commission
19 may prescribe, the Chairperson of the Commission may,
20 without regard to the provisions of title 5, United States
21 Code, governing appointments in the competitive service,
22 and without regard to the provisions of chapter 51 and
23 subchapter III of chapter 53 of such title (relating to clas-
24 sification and General Schedule pay rates), appoint and
25 fix the pay of a staff director and such other personnel

1 as may be necessary to enable the Commission to carry
2 out its functions, except that no rate of pay fixed under
3 this subsection may exceed the maximum rate of basic pay
4 payable for GS–15 of the General Schedule.

5 (d) STAFF OF FEDERAL AGENCIES.—Upon request
6 of the Chairperson of the Commission, the head of any
7 department or agency of the United States may detail, on
8 a nonreimbursable basis, any of the personnel of that de-
9 partment or agency to the Commission to assist it in car-
10 rying out its functions under this Act.

11 (e) EXPERTS AND CONSULTANTS.—With the ap-
12 proval of the Commission, the Chairperson of the Commis-
13 sion may procure temporary and intermittent services
14 under section 3109(b) of title 5, United States Code, at
15 rates for individuals not to exceed the daily equivalent of
16 the maximum rate of basic pay payable for GS–15 of the
17 General Schedule.

18 **SEC. 7. REPORT.**

19 (a) SUBMISSION TO THE PRESIDENT.—The Commis-
20 sion shall transmit its final report to the President not
21 later than 2 years after the initial meeting of the Commis-
22 sion. Such report shall contain a detailed statement of the
23 findings and conclusions of the Commission, together with
24 its recommendations for such legislative, administrative,
25 or other action as the Commission considers appropriate.

1 (b) SUBMISSION TO THE CONGRESS.—Not later than
2 6 months after receiving the final report of the Commis-
3 sion under subsection (a), the President shall transmit
4 such report to the Congress, together with any comments
5 or recommendations (including any proposed legislation)
6 which the President considers appropriate.

7 **SEC. 8. TERMINATION OF COMMISSION.**

8 The Commission shall terminate on the 90th day
9 after the date on which the Commission is required to sub-
10 mit its final report under section 7(a).

11 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated to carry out
13 this Act—

14 (1) \$5,000,000 for fiscal year 2001; and

15 (2) \$5,000,000 for fiscal year 2002.

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